

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

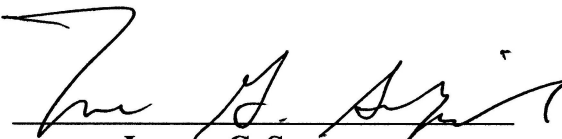
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|--------------------|---|--|---------------------|
| -----              | X |  |                     |
|                    | : |  |                     |
| EDELMIRA GUERRERO, | : |  |                     |
|                    | : |  |                     |
| Plaintiff,         | : |  |                     |
|                    | : |  | 22 Civ. 2583 (LGS)  |
| -against-          | : |  |                     |
|                    | : |  |                     |
| OGAWA USA INC.,    | : |  | <b><u>ORDER</u></b> |
|                    | : |  |                     |
| Defendant.         | : |  |                     |
| -----              | X |  |                     |

LORNA G. SCHOFIELD, District Judge:

WHEREAS, on September 20, 2022, Defendant filed a motion to dismiss Plaintiff's First Amended Complaint. As the motion was accompanied by an affidavit from Mark Holmes supporting Defendant's motion to dismiss, Defendant has made a fact-based motion under Federal Rule of Civil Procedure 12(b)(1). *See Carter v. HealthPort Techs., LLC*, 822 F.3d 47, 57 (2d Cir. 2016) (a fact-based Rule 12(b)(1) motion "proffer[s] evidence beyond the Pleading"). It is hereby

**ORDERED** that Plaintiff shall submit a verified complaint by **May 24, 2023**, to provide an evidentiary basis to resolve the motion.

Dated: May 18, 2023  
New York, New York

  
**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**